

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: | Joseph C. Eder and Alejandro Berenstein |
| Application No.: | 10/063315 |
| Filed: | April 10, 2002 |
| For: | Hybrid Stent |
| Examiner: | Ryan J. Severson |
| Group Art Unit: | 3731 |

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: S63.2B-10039-US01

Remarks

These remarks are in response to the Notice of Non-Compliant Appeal Brief of **February 23, 2010**.

Applicants resubmit herewith a revised Appeal Brief in response to the Notice of Non-Compliant Appeal Brief (hereinafter the "Notice"). In addition, Applicants submit the following comments questioning the necessity of the Notice.

It was indicated in the Notice that Applicants' Appeal Brief was regarded as Non-Complaint because Applicants did not include the word "None" under the Evidence and Related Proceedings headings. Specifically, the Notice stated, "if there is no evidence or related proceedings present, then the indication of "none" should be present after both headings."

MPEP § 1205.03 states, in-part:

The examiner should not require a corrected brief for minor non-compliance in an appeal brief (e.g., the brief has a minor error in the title of a section heading). The following are a few other examples where the examiner may accept a brief that has minor non-compliance:

(A) If the evidence appendix and related proceedings appendix are missing, but the record is clear that there is no evidence submitted and no related proceedings listed in the related appeals and interferences section, the examiner may accept the brief and state in the examiner's answer that it is assumed that the appellant meant to include both appendixes with a statement of "NONE."

In light of the aforementioned language of the MPEP, the Notice was unnecessary. Applicant requests withdrawal of the Notice.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: March 4, 2010

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